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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,331	07/03/2003	John Eugene Allamon	ARIBP068	8022
21912	7590	09/14/2007		
VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014			EXAMINER HAYLES, ASHFORD S	
			ART UNIT 3609	PAPER NUMBER
			MAIL DATE 09/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/614,331

Applicant(s)

ALLAMON ET AL.

Examiner

Ashford S. Hayles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date July 3 2003
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is a first Non-Final Office Action on the merits. Claims 1-20 are pending.

#### ***Claim Objections***

2. Claim 10 is objected to because of the following informalities: the term "lost" at line 13 should be --lots--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 20 is rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well-established utility.

The claimed computer readable medium is not limited to embodiments, which fall within a statutory category of the invention and would enable the functionality of the instructions to be realized. Signal media are forms of energy, per se, and these do not fall within a statutory category.

Claim 20 is also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a credible asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claims 5, 6, and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 5 and 6, the recitation "all of the identified attributes" and "any of the identified attributes" lack proper antecedent basis, because both phrase contradict line 6 of Claim 1 that calls for at least one identified attributes. Claims 16 and 17 also have the same deficiencies and are therefore also rejected.

In Claim 15, the recitation "similar characteristics" renders the claim indefinite because it is unclear as to what the term "similar" is intended to cover.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang (6,604,107).

As per claim 1, Wang teaches a method for creating a lot having a plurality of items to be auctioned in an electronic auction based on common attributes of the items (Column 1, lines 46-50), comprising:

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providing an electronic database (Database 23) containing a listing of items, including the items to be auctioned, each item in the listing of items having at least one attribute, each attribute being common to a plurality of items in the listing of items (Column 3, lines 6-20);

identifying at least one attribute of at least one of the items to be auctioned (Column 3, lines 15-20);

searching the database to compile an identified listing of items, each item in the identified listing of items having the at least one identified attribute (Column 7 lines 8-28); and

generating a lot listing from the identified listing of items (Column 5, line 5-16 via different categories).

As per claim 2, Wang teaches an attribute-based electronically searchable list of a plurality of attributes (Column 5, lines 63-67 through columns 6, lines 1-6).

As per claim 3, Wang teaches an index of total number of items per each identified attribute via attributes within map entry (Column 3, lines 2-5).

As per claim 4, Wang further teaches grouping attributes with similar characteristics and prices (Column 5, lines 50-52).

As per claim 5 and 6, Wang teaches selecting the items in the lot listing having all or any of the identified attributes (Column 3 lines 14-20 For instance automobile will have some or all of the identified attributes).

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As per claim 7 Wang teaches at least one attribute comprises at least one of an operation, material, fabrication, process, tolerance, size, weight, specification and any other feature of a part (Column 1, lines 29-30 via size as a displayed attribute).

As per claim 8 Wang teaches displaying the generated lots in a formatted manner (Via Attribute Map Table 200 see Figure 6).

As per claim 9 Wang teaches that items to be auctioned comprise at least one of parts, materials, and components (Column 3, lines 51-62).

As per Claim 10 Wang teaches a an electronic database having an attribute-based electronically searchable list of a plurality of attributes and a listing of items (Column 5, lines 63-67), including the items to be auctioned, each item in the listing of items having at least one attribute, each attribute being common to a plurality of items in the listing of items (Column 5, line 67 through Column 6 lines 1-6);

identifying at least one attribute of at least one of the items to be auctioned (Column 3, lines 15-20);

searching the database to compile an identified listing of items, including each item in the identified listing of items having the at least one identified attribute (Column 7, lines 8-28) and an index of the total number of items per each identified attribute (Column 3 lines 2-5); and

generating a lot listing from the identified listing of items by: grouping attributes with similar characteristics and prices (Column 3, lines 60-66);

selecting the items in the lost listing having the identified attributes (Column 3, lines 14-20); and

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displaying the generated lots in an organized manner (Column 5 lines 48-57 via Output display interface, which displays attributes in an organized manner).

As per claim 11, Wang teaches a system for creating a lot having a plurality of items to be auctioned in an electronic auction based on common attributes of the items (Column 1, lines 46-50), comprising:

a database for storing a listing of items, including the items to be auctioned (Database 23); and

software (Column 7, lines 51-56) for:

choosing at least one attribute of at least one of the items to be auctioned (Column 3, lines 15-20) and (Column 6, lines 14-39);

searching the database to compile an identified listing of items (Column 7, lines 8-28); and generating a lot listing from the identified listing of items (Column 5, lines 5-16).

As per claim 12, Wang further teaches each item in the listing of items comprising at least one attribute, each attribute being common to a plurality of items in the listing of items (Column 7, lines 10-15).

As per claim 13, Wang teaches each item in the identified listing of items comprising the at least one identified attribute (Column 7, lines 15-24).

As per claim 14, Wang teaches a system wherein the database further comprises an attribute-based electronically searchable list of a plurality of attributes (Column 6, lines 62-67 through Column 7 lines 1-7).

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As per claim 15, Wang teaches a system wherein the software further comprises grouping attributes with similar characteristics and prices (Column 3, lines 6-20).

As per claim 16 and 17, Wang teaches a system wherein the software further comprises generating the items in the lot listing having all or any of the identified attributes (Column 7, lines 8-28).

As per claim 18, Wang teaches a system wherein the at least one attribute comprises at least one of an operation, material, fabrication, process, tolerance, size, weight, specification and any other feature of a part (Column 1, lines 29-30 via size as a displayed attribute).

As per claim 19, Wang teaches a system wherein the items to be auctioned comprise at least one of parts, materials, and components (Column 3, lines 51 –62).

As per claim 20 Wang also teaches a machine readable medium that creates a lot having a plurality of items to be auctioned in an electronic auction based on common attributes of the items (Column 7, lines 50-65).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ausubel (PG Pub.: US 2005/0102215A1) discloses a system and method for a computer-implemented auction in which multiple types of items are auctioned



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together without imposing a particular division of supply or demand among individual types of items.

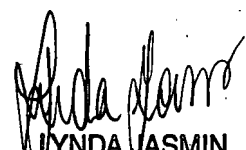
Stephens (PG Pub.: US 2002/0161697A1) discloses an online RFP procurement auction system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashford S. Hayles whose telephone number is 571-270-5106. The examiner can normally be reached on Monday thru Thursday 8:30 to 4:00 Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571-270-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-274-5106.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AH

 9/10/07  
LYNDA JASMIN  
SUPERVISORY PATENT EXAMINER